Court No.2

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No.1685 (M/S) of 2001
(Old No.26317 of 1999)

Vinod Kumar S/o Sri Surajmal Sharma,
R/o Village Narsan Khurd, Post Office
Gurukul Narsan College, Distt. Haridwar.

..... Petitioner

Versus

1. The Presiding Officer, Labour Court, U.P. Dehradun
2. U.P. State Road Transport Corporation, through its Regional Manager, Meerut.

..... Respondents.

Shri Manoj Tewari, learned counsel for the petitioner.
Shri A.N. Sharma, learned for Respondent No.2.

Dated: 28.09.2005

Hon'ble P.C. Verma, J.

This writ petition has been filed by the petitioner-seeking writ of Certiorari to quash the impugned judgment and award dated 26.08.1998 passed by Respondent No.1 in Adjudication Case No.42 of 1998.

2. Brief facts of the case are that the petitioner was appointed by the Respondent No.2 as Conductor in U.P. State Road Transport Corporation ***(hereinafter will be referred to as the Corporation).*** On 19.10.1995, the petitioner while on duty at Roorkee-Muzaffarnagar route, his Bus, UP. 15-C 4539 was checked and it was found that twenty-eight passengers were traveling without ticket in the Bus. On the basis of said report, the petitioner was suspended on 20.10.1995 and a chargesheet dated 04.12.1995 was issued to him for certain acts of misconduct and after holding a departmental enquiry, he was dismissed from service w.e.f. 20.12.1996. Feeling aggrieved against the said order, the petitioner raised the industrial dispute, which was referred in the following terms:-

"Whether the termination of the services of the applicant/workman Shri Vinod Kumar S/o Shri Surajmal, Conductor by the employers from 20.12.1996 is justified and/or legal? If no, to which benefit/compensation the applicant /workman is entitled and to what extent?""

3. After the receipt of the reference, the Labour Court issued notice to the parties to file the written statements/objections. The labour court after considering the entire record of the enquiry and the oral and documentary evidence led by the parties, came to the conclusion that the departmental enquiry was held according to the provisions, he petitioner was given full opportunity of defence and the enquiry was held by fully observing the principles of natural justice and held that that the termination order of services of workman was legal and justified.

4. I have heard learned counsel for the parties and perused and entire material on record.

5. The learned counsel for he petitioner submitted that at the time when the bus was checked by the inspectors, neither any written statement was obtained from the passengers nor the cash was checked. He further submitted that the charge of fraud against the petitioner could have been proved if the cash at the time of checking of the Bus would have been checked, hence, the conclusion arrived at by the enquiry officer is perverse. I find force in the contention of the learned counsel for the petitioner. The learned Tribunal ought to have considered this fact that at the time of checking, neither the cash was checked nor the passengers were examined. The charges leveled against the petitioner are not commensurate to the punishment awarded to him in view of the perversity of the finding. Therefore, the order of termination of services of workman is set aside. The impugned order cannot be sustained in the eye of law.

6. Therefore, the impugned award dated 26.08.1998 is set aside. The petitioner shall be reinstated in services with the minor punishment of stoppage of two increments with cumulative effect but he shall not be paid any back wages.

7. The writ petition is partly allowed. The petitioner shall be reinstated in services with the minor punishment of stoppage of two increments with cumulative effect but he shall not be paid any back wages.

(P.C. Verma, J.)

Rajeev Dang

WPMS No.1685 of 2001
Old No.26317 of 1999

Hon'ble P.C. Verma, J.
(Delay Condn. Appln. No.3304 of 2006)
(Review Appln. No.25/06)

Heard learned counsel for the parties and perused the applications supported by affidavits.

The reasons mentioned in the accompanying affidavit for the application for condonation of delay are not satisfactory, as the delay has not satisfactorily been explained. Hence the application for condonation of delay is rejected. Consequently, the review application is also rejected.

Both the applications are rejected accordingly.

(P.C. Verma, J.)

25-05-2006
Rajeev Dang